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ENGROSSED SUBSTITUTE HOUSE BILL 1838

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State of Washington

63rd Legislature

2014 Regular Session

By House Judiciary (originally sponsored by Representatives Moeller, Ryu, and Jinkins)

READ FIRST TIME 02/22/13.

1 AN ACT Relating to surname changes; amending RCW 9A.44.130; adding  
2 a new section to chapter 26.04 RCW; prescribing penalties; and  
3 providing an effective date.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 26.04 RCW  
6 to read as follows:

7 (1) Any person desiring to change his or her surname at the time of  
8 marriage may so indicate in the space provided on the Washington state  
9 department of health marriage certificate form. A copy of a marriage  
10 certificate, certified by the state registrar or the recording officer  
11 in the county of record and on which a new surname is entered, shall be  
12 accepted at state and local government offices for purposes of  
13 effectuating such a surname change.

14 (2) An offender under the jurisdiction of the department of  
15 corrections who changes his or her name at the time of marriage by so  
16 indicating on the marriage certificate shall submit a copy of the  
17 marriage certificate to the department of corrections within five days  
18 of the solemnization of marriage. Violation of this subsection is a  
19 misdemeanor.

1 (3) A sex offender subject to registration under RCW 9A.44.130 who  
2 changes his or her name at the time of marriage by so indicating on the  
3 marriage certificate shall follow the procedures set forth in RCW  
4 9A.44.130(6).

5 **Sec. 2.** RCW 9A.44.130 and 2011 c 337 s 3 are each amended to read  
6 as follows:

7 (1)(a) Any adult or juvenile residing whether or not the person has  
8 a fixed residence, or who is a student, is employed, or carries on a  
9 vocation in this state who has been found to have committed or has been  
10 convicted of any sex offense or kidnapping offense, or who has been  
11 found not guilty by reason of insanity under chapter 10.77 RCW of  
12 committing any sex offense or kidnapping offense, shall register with  
13 the county sheriff for the county of the person's residence, or if the  
14 person is not a resident of Washington, the county of the person's  
15 school, or place of employment or vocation, or as otherwise specified  
16 in this section. When a person required to register under this section  
17 is in custody of the state department of corrections, the state  
18 department of social and health services, a local division of youth  
19 services, or a local jail or juvenile detention facility as a result of  
20 a sex offense or kidnapping offense, the person shall also register at  
21 the time of release from custody with an official designated by the  
22 agency that has jurisdiction over the person.

23 (b) Any adult or juvenile who is required to register under (a) of  
24 this subsection must give notice to the county sheriff of the county  
25 with whom the person is registered within three business days:

26 (i) Prior to arriving at a school or institution of higher  
27 education to attend classes;

28 (ii) Prior to starting work at an institution of higher education;  
29 or

30 (iii) After any termination of enrollment or employment at a school  
31 or institution of higher education.

32 (2)(a) A person required to register under this section must  
33 provide the following information when registering: (i) Name and any  
34 aliases used; (ii) complete and accurate residential address or, if the  
35 person lacks a fixed residence, where he or she plans to stay; (iii)  
36 date and place of birth; (iv) place of employment; (v) crime for which

1 convicted; (vi) date and place of conviction; (vii) social security  
2 number; (viii) photograph; and (ix) fingerprints.

3 (b) A person may be required to update any of the information  
4 required in this subsection in conjunction with any address  
5 verification conducted by the county sheriff or as part of any notice  
6 required by this section.

7 (c) A photograph or copy of an individual's fingerprints may be  
8 taken at any time to update an individual's file.

9 (3)(a) Offenders shall register with the county sheriff within the  
10 following deadlines:

11 (i) OFFENDERS IN CUSTODY. (A) Sex offenders who committed a sex  
12 offense on, before, or after February 28, 1990, and who, on or after  
13 July 28, 1991, are in custody, as a result of that offense, of the  
14 state department of corrections, the state department of social and  
15 health services, a local division of youth services, or a local jail or  
16 juvenile detention facility, and (B) kidnapping offenders who on or  
17 after July 27, 1997, are in custody of the state department of  
18 corrections, the state department of social and health services, a  
19 local division of youth services, or a local jail or juvenile detention  
20 facility, must register at the time of release from custody with an  
21 official designated by the agency that has jurisdiction over the  
22 offender. The agency shall within three days forward the registration  
23 information to the county sheriff for the county of the offender's  
24 anticipated residence. The offender must also register within three  
25 business days from the time of release with the county sheriff for the  
26 county of the person's residence, or if the person is not a resident of  
27 Washington, the county of the person's school, or place of employment  
28 or vocation. The agency that has jurisdiction over the offender shall  
29 provide notice to the offender of the duty to register.

30 When the agency with jurisdiction intends to release an offender  
31 with a duty to register under this section, and the agency has  
32 knowledge that the offender is eligible for developmental disability  
33 services from the department of social and health services, the agency  
34 shall notify the division of developmental disabilities of the release.  
35 Notice shall occur not more than thirty days before the offender is to  
36 be released. The agency and the division shall assist the offender in  
37 meeting the initial registration requirement under this section.

1 Failure to provide such assistance shall not constitute a defense for  
2 any violation of this section.

3 (ii) OFFENDERS NOT IN CUSTODY BUT UNDER STATE OR LOCAL  
4 JURISDICTION. Sex offenders who, on July 28, 1991, are not in custody  
5 but are under the jurisdiction of the indeterminate sentence review  
6 board or under the department of corrections' active supervision, as  
7 defined by the department of corrections, the state department of  
8 social and health services, or a local division of youth services, for  
9 sex offenses committed before, on, or after February 28, 1990, must  
10 register within ten days of July 28, 1991. Kidnapping offenders who,  
11 on July 27, 1997, are not in custody but are under the jurisdiction of  
12 the indeterminate sentence review board or under the department of  
13 corrections' active supervision, as defined by the department of  
14 corrections, the state department of social and health services, or a  
15 local division of youth services, for kidnapping offenses committed  
16 before, on, or after July 27, 1997, must register within ten days of  
17 July 27, 1997. A change in supervision status of a sex offender who  
18 was required to register under this subsection (3)(a)(ii) as of July  
19 28, 1991, or a kidnapping offender required to register as of July 27,  
20 1997, shall not relieve the offender of the duty to register or to  
21 reregister following a change in residence.

22 (iii) OFFENDERS UNDER FEDERAL JURISDICTION. Sex offenders who, on  
23 or after July 23, 1995, and kidnapping offenders who, on or after July  
24 27, 1997, as a result of that offense are in the custody of the United  
25 States bureau of prisons or other federal or military correctional  
26 agency for sex offenses committed before, on, or after February 28,  
27 1990, or kidnapping offenses committed on, before, or after July 27,  
28 1997, must register within three business days from the time of release  
29 with the county sheriff for the county of the person's residence, or if  
30 the person is not a resident of Washington, the county of the person's  
31 school, or place of employment or vocation. Sex offenders who, on July  
32 23, 1995, are not in custody but are under the jurisdiction of the  
33 United States bureau of prisons, United States courts, United States  
34 parole commission, or military parole board for sex offenses committed  
35 before, on, or after February 28, 1990, must register within ten days  
36 of July 23, 1995. Kidnapping offenders who, on July 27, 1997, are not  
37 in custody but are under the jurisdiction of the United States bureau  
38 of prisons, United States courts, United States parole commission, or

1 military parole board for kidnapping offenses committed before, on, or  
2 after July 27, 1997, must register within ten days of July 27, 1997.  
3 A change in supervision status of a sex offender who was required to  
4 register under this subsection (3)(a)(iii) as of July 23, 1995, or a  
5 kidnapping offender required to register as of July 27, 1997 shall not  
6 relieve the offender of the duty to register or to reregister following  
7 a change in residence, or if the person is not a resident of  
8 Washington, the county of the person's school, or place of employment  
9 or vocation.

10 (iv) OFFENDERS WHO ARE CONVICTED BUT NOT CONFINED. Sex offenders  
11 who are convicted of a sex offense on or after July 28, 1991, for a sex  
12 offense that was committed on or after February 28, 1990, and  
13 kidnapping offenders who are convicted on or after July 27, 1997, for  
14 a kidnapping offense that was committed on or after July 27, 1997, but  
15 who are not sentenced to serve a term of confinement immediately upon  
16 sentencing, shall report to the county sheriff to register within three  
17 business days of being sentenced.

18 (v) OFFENDERS WHO ARE NEW RESIDENTS OR RETURNING WASHINGTON  
19 RESIDENTS. Sex offenders and kidnapping offenders who move to  
20 Washington state from another state or a foreign country that are not  
21 under the jurisdiction of the state department of corrections, the  
22 indeterminate sentence review board, or the state department of social  
23 and health services at the time of moving to Washington, must register  
24 within three business days of establishing residence or reestablishing  
25 residence if the person is a former Washington resident. The duty to  
26 register under this subsection applies to sex offenders convicted under  
27 the laws of another state or a foreign country, federal or military  
28 statutes for offenses committed before, on, or after February 28, 1990,  
29 or Washington state for offenses committed before, on, or after  
30 February 28, 1990, and to kidnapping offenders convicted under the laws  
31 of another state or a foreign country, federal or military statutes, or  
32 Washington state for offenses committed before, on, or after July 27,  
33 1997. Sex offenders and kidnapping offenders from other states or a  
34 foreign country who, when they move to Washington, are under the  
35 jurisdiction of the department of corrections, the indeterminate  
36 sentence review board, or the department of social and health services  
37 must register within three business days of moving to Washington. The

1 agency that has jurisdiction over the offender shall notify the  
2 offender of the registration requirements before the offender moves to  
3 Washington.

4 (vi) OFFENDERS FOUND NOT GUILTY BY REASON OF INSANITY. Any adult  
5 or juvenile who has been found not guilty by reason of insanity under  
6 chapter 10.77 RCW of (A) committing a sex offense on, before, or after  
7 February 28, 1990, and who, on or after July 23, 1995, is in custody,  
8 as a result of that finding, of the state department of social and  
9 health services, or (B) committing a kidnapping offense on, before, or  
10 after July 27, 1997, and who on or after July 27, 1997, is in custody,  
11 as a result of that finding, of the state department of social and  
12 health services, must register within three business days from the time  
13 of release with the county sheriff for the county of the person's  
14 residence. The state department of social and health services shall  
15 provide notice to the adult or juvenile in its custody of the duty to  
16 register. Any adult or juvenile who has been found not guilty by  
17 reason of insanity of committing a sex offense on, before, or after  
18 February 28, 1990, but who was released before July 23, 1995, or any  
19 adult or juvenile who has been found not guilty by reason of insanity  
20 of committing a kidnapping offense but who was released before July 27,  
21 1997, shall be required to register within three business days of  
22 receiving notice of this registration requirement.

23 (vii) OFFENDERS WHO LACK A FIXED RESIDENCE. Any person who lacks  
24 a fixed residence and leaves the county in which he or she is  
25 registered and enters and remains within a new county for twenty-four  
26 hours is required to register with the county sheriff not more than  
27 three business days after entering the county and provide the  
28 information required in subsection (2)(a) of this section.

29 (viii) OFFENDERS WHO LACK A FIXED RESIDENCE AND WHO ARE UNDER  
30 SUPERVISION. Offenders who lack a fixed residence and who are under  
31 the supervision of the department shall register in the county of their  
32 supervision.

33 (ix) OFFENDERS WHO MOVE TO, WORK, CARRY ON A VOCATION, OR ATTEND  
34 SCHOOL IN ANOTHER STATE. Offenders required to register in Washington,  
35 who move to another state, or who work, carry on a vocation, or attend  
36 school in another state shall register a new address, fingerprints, and  
37 photograph with the new state within three business days after  
38 establishing residence, or after beginning to work, carry on a

1 vocation, or attend school in the new state. The person must also send  
2 written notice within three business days of moving to the new state or  
3 to a foreign country to the county sheriff with whom the person last  
4 registered in Washington state. The county sheriff shall promptly  
5 forward this information to the Washington state patrol.

6 (b) The county sheriff shall not be required to determine whether  
7 the person is living within the county.

8 (c) An arrest on charges of failure to register, service of an  
9 information, or a complaint for a violation of RCW 9A.44.132, or  
10 arraignment on charges for a violation of RCW 9A.44.132, constitutes  
11 actual notice of the duty to register. Any person charged with the  
12 crime of failure to register under RCW 9A.44.132 who asserts as a  
13 defense the lack of notice of the duty to register shall register  
14 within three business days following actual notice of the duty through  
15 arrest, service, or arraignment. Failure to register as required under  
16 this subsection (3)(c) constitutes grounds for filing another charge of  
17 failing to register. Registering following arrest, service, or  
18 arraignment on charges shall not relieve the offender from criminal  
19 liability for failure to register prior to the filing of the original  
20 charge.

21 (d) The deadlines for the duty to register under this section do  
22 not relieve any sex offender of the duty to register under this section  
23 as it existed prior to July 28, 1991.

24 (4)(a) If any person required to register pursuant to this section  
25 changes his or her residence address within the same county, the person  
26 must provide, by certified mail, with return receipt requested or in  
27 person, signed written notice of the change of address to the county  
28 sheriff within three business days of moving.

29 (b) If any person required to register pursuant to this section  
30 moves to a new county, the person must register with that county  
31 sheriff within three business days of moving. Within three business  
32 days, the person must also provide, by certified mail, with return  
33 receipt requested or in person, signed written notice of the change of  
34 address in the new county to the county sheriff with whom the person  
35 last registered. The county sheriff with whom the person last  
36 registered shall promptly forward the information concerning the change  
37 of address to the county sheriff for the county of the person's new  
38 residence. Upon receipt of notice of change of address to a new state,

1 the county sheriff shall promptly forward the information regarding the  
2 change of address to the agency designated by the new state as the  
3 state's offender registration agency.

4 (5)(a) Any person required to register under this section who lacks  
5 a fixed residence shall provide signed written notice to the sheriff of  
6 the county where he or she last registered within three business days  
7 after ceasing to have a fixed residence. The notice shall include the  
8 information required by subsection (2)(a) of this section, except the  
9 photograph and fingerprints. The county sheriff may, for reasonable  
10 cause, require the offender to provide a photograph and fingerprints.  
11 The sheriff shall forward this information to the sheriff of the county  
12 in which the person intends to reside, if the person intends to reside  
13 in another county.

14 (b) A person who lacks a fixed residence must report weekly, in  
15 person, to the sheriff of the county where he or she is registered.  
16 The weekly report shall be on a day specified by the county sheriff's  
17 office, and shall occur during normal business hours. The person must  
18 keep an accurate accounting of where he or she stays during the week  
19 and provide it to the county sheriff upon request. The lack of a fixed  
20 residence is a factor that may be considered in determining an  
21 offender's risk level and shall make the offender subject to disclosure  
22 of information to the public at large pursuant to RCW 4.24.550.

23 (c) If any person required to register pursuant to this section  
24 does not have a fixed residence, it is an affirmative defense to the  
25 charge of failure to register, that he or she provided written notice  
26 to the sheriff of the county where he or she last registered within  
27 three business days of ceasing to have a fixed residence and has  
28 subsequently complied with the requirements of subsections (3)(a)(vii)  
29 or (viii) and (5) of this section. To prevail, the person must prove  
30 the defense by a preponderance of the evidence.

31 (6) A sex offender subject to registration requirements under this  
32 section who applies to change his or her name under RCW 4.24.130 or  
33 section 1 of this act or any other law shall submit a copy of the  
34 application to the county sheriff of the county of the person's  
35 residence and to the state patrol not fewer than five days before the  
36 entry of an order granting the name change. No sex offender under the  
37 requirement to register under this section at the time of application  
38 shall be granted an order changing his or her name if the court finds

1 that doing so will interfere with legitimate law enforcement interests,  
2 except that no order shall be denied when the name change is requested  
3 for religious or legitimate cultural reasons or in recognition of  
4 marriage or dissolution of marriage. A sex offender under the  
5 requirement to register under this section who receives an order or a  
6 marriage certificate changing his or her name shall submit a copy of  
7 the order or marriage certificate to the county sheriff of the county  
8 of the person's residence and to the state patrol within three business  
9 days of the entry of the order.

10 (7) Except as may otherwise be provided by law, nothing in this  
11 section shall impose any liability upon a peace officer, including a  
12 county sheriff, or law enforcement agency, for failing to release  
13 information authorized under this section.

14 NEW SECTION. **Sec. 3.** This act takes effect January 1, 2015.

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